

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-213014**DATE:** January 10, 1984**MATTER OF:** Schultes Level, Inc.**DIGEST:**

Failure of contracting agency to solicit the incumbent contractor for the current year contract does not constitute a compelling reason to resolicit the agency's needs where the incumbent has not shown that there was inadequate competition for the procurement, that prices obtained were unreasonable, or that the failure was the result of a deliberate or conscious attempt to preclude the incumbent from competing.

Schultes Level, Inc. protests the failure of the General Services Administration (GSA) to advise it of invitations for bids (IFBs) Nos. FEP-BL-F0195A-1 and FEP-BL-F0195A-2, which solicited bids for requirements contracts for various types of levels and plumbs. Schultes, the incumbent contractor for 13 items, states that it did not learn of the procurements until after bids were opened, and requests cancellation of the IFBs and resolicitation to give Schultes a chance to compete. We deny the protest.

Schultes states that it has received GSA's annual solicitations for levels for the past 20 years, and maintains that the government could realize significant savings by permitting the firm to compete. Further, Schultes states that it is unable to understand why its name was omitted from the agency's bidders list and, without any substantiation, alleges intentional misconduct by the agency's procurement officials.

The IFBs were issued on June 23, 1983. GSA advises that copies of the IFBs were sent to bidders on GSA's regular mailing list and to bidders on a handwritten list, which contained names of current, previous, and other interested bidders compiled by the contracting officer. GSA explains that Schultes' name was inadvertently omitted

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from the handwritten list, and crossed off the regular mailing list when the contracting officer was updating the handwritten list. GSA maintains that the failure to solicit Schultes thus was a result of simple human error.

Inadvertent actions of an agency which preclude a potential supplier (even an incumbent contractor) from competing on a procurement do not constitute a compelling reason to resolicit so long as adequate competition was generated and reasonable prices were obtained, and there was no deliberate or conscious attempt to preclude the potential supplier from submitting a bid. Bakte Bennett Laboratory, B-190017, November 15, 1977, 77-2 CPD 373.

In this case, Schultes makes no allegation that adequate competition was not obtained. While Schultes alleges that its prices would have been lower for some items, this does not mean, nor does Schultes allege, that the prices received by the government were unreasonable. Concerning GSA's failure to advise Schultes of the invitations, in view of the agency's explanation we cannot find any deliberate or conscious attempt to keep Schultes from bidding. Moreover, we note that the solicitations, with the bid opening dates, were advertised in the Commerce Business Daily almost 1 month before bids were due, which should have alerted Schultes to these annual procurements in time to participate.

Therefore, we find that GSA's failure to advise Schultes of these solicitations does not warrant cancellation and resolicitation. The protest is denied.

for Milton J. Dorlan
Comptroller General
of the United States